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6 IN THE UNITED STATES DISTRICT COURT

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8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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10 T.T., a minor, by and through his guardian ad
item SUSAN T.,

No. C 12-02349 WHA

11 Plaintiff,

12 v.

13 COUNTY OF MARIN,

14 Defendant.

15 _____ /
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17 **APPOINTMENT OF SPECIAL
MASTER AND ORDER OF
REFERENCE**

18 The parties having agreed upon a special master, the Court hereby appoints Marc
19 Bernstein as a special master with respect to attorney's fees and costs due plaintiff .

20 The Court has already determined that plaintiff is a prevailing party on his special
21 motion to strike as to two of defendant's counterclaims (Dkt. Nos. 47, 58). Plaintiff is entitled
22 to fees and costs under Code Civ. Proc. § 425.16(c)(1). Plaintiff is only entitled to reasonable
23 fees for work that was efficiently carried out and which bore a substantial relationship to
24 prevailing on the motion. The extent to which plaintiff prevailed is detailed in the Court's
25 January 25, 2013 order (Dkt. No. 77).

26 The special master shall have all the powers set forth in FRCP 53(c) and FRCP
27 54(d)(2)(D). The parties shall provide the special master with copies of all motion papers and
28 other documents relevant to this dispute. The special master shall review the briefs and
declarations by the parties on the pending motion, hear argument, and then determine a
reasonable amount to award, including any fees on fees. The special master shall also
determine the extent to which any discovery should be permitted — with the caution that

1 further discovery should be the exception and not the rule. The special master shall then
2 prepare and file a report on recommended findings and amount. The special master shall
3 complete his determination by **APRIL 25, 2013**.

4 Absent any supplementation allowed by the special master, the submissions already
5 made shall be the entire record for the motion. Any further submissions for the special
6 master's use should not be filed with the Court. If objections are later made to the special
7 master's report, the objecting party must file a declaration submitting to the Court a complete
8 appendix of relevant communications with the special master.

9 The Court will allocate the fees of the special master in a fair and reasonable manner,
10 taking into account the reasonableness of the parties' respective positions and the special
11 master's recommendation in this regard. If the movant must pay, then the special master's
12 compensation shall be *deducted* from the attorney's fee award. If the opposing party must pay
13 the special master, then it shall pay the special master *and* pay the award. The Court will,
14 however, reserve final judgment on allocation of the expense of the special master until a final
15 determination of the fee issue. A final award shall then be entered.

16 Costs will be determined in strict compliance with the local rules. If a review is sought
17 regarding taxable costs, then the issue may also be referred to a special master (or may not).

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20 **IT IS SO ORDERED.**

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22 Dated: March 20, 2013.


23 WILLIAM ALSUP
24 UNITED STATES DISTRICT JUDGE

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26 **REFERENCE ACCEPTED BY MASTER.**

27 Dated: _____
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